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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,041	11/29/2005	Albrecht von Linde	1406/275	1321
25297 7590 05/27/2008 JENKINS, WILSON, TAYLOR & HUNT, P. A. Suite 1200 UNIVERSITY TOWER 3100 TOWER BLVD., DURHAM, NC 27707				
EXAMINER				
ADDIE, RAYMOND W				
ART UNIT		PAPER NUMBER		
3671				
MAIL DATE		DELIVERY MODE		
05/27/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,041

Applicant(s)

LINDE, ALBRECHT VON

Examiner

Raymond W. Addie

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date 6/27/2005, 8/15/2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 908,805 reference to Champion.

Champion discloses a device for modifying the layout of a road, such as a racetrack, comprising:

A plurality of individual curb elements (11, 12) disposed along said road. The curb elements being movable in a variety of configurations, for traffic control and direction.

Wherein the curb elements are tiltable being flush with the road surface, to an inclined orientation, facilitating the formation of curves in the roadway and divided lanes.

A mechanical drive means (13) for adjusting the height of the curb element(s).

See Page 1, lines 12-20; Fig. 4.

With respect to claims 4-7 it is inherent the curb elements could be covered with asphalt, in order to provide a smooth driving surface when not deployed. Further Champion discloses the drive means (13) for controlling deployment of the curb

elements (11, 12) could be any suitable actuating and locking means, to retain the kerb in the operative and inoperative positions. It is inherent that with varies different, and commonly known actuating means, cylinders, worm gears etc., the curb elements of Champion, could be deployed in a variety of intermediately deployed heights and group configurations. See Page 2, Ins. 65-83.

With respect to claims 11-13 Champion discloses the curb elements could have a variety of sizes and shapes, dependent upon the application. See Figs. 2-5. Hence, commonly known "trapezoidal cross-section" shapes are well within the skill of one in the art.

With respect to claim 14 Champion discloses a method for modifying the layout of a roadway, such as a race track comprising:

Providing a plurality of curb elements (11, 12) in or adjacent a roadway traffic lane.

Displacing from an initial "flush" configuration to a deployed configuration, at least one curb element (11, 12).

Wherein the curb elements (11, 12) can be tilted from the flush, to an inclined, deployed position.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Champion

GB 908,805 in view of Jack US 2001/0048845 A1.

Champion discloses essentially all that is claimed, to include any suitable actuating and locking means, to control movement of the curb element; but fails to explicitly recite the use of a remote control.

However, Jack teaches a remote control system (45) to control movement of a plurality of movable roadway barriers (10), individually and simultaneously. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the system for modifying the layout of a roadway, of Champion, with a remote control system, as taught by Jack, in order to control and change the direction of traffic quickly and from a safe distance. See Para. [0016-0017].

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 571 272-6986. The examiner can normally be reached on 7am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raymond W. Addie/
Primary Examiner, Art Unit 3671

5/21/2008